

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

VIASAT, INC.,

Plaintiff,

vs.

**KIOXIA CORPORATION and KIOXIA
AMERICA, INC.,**

Defendants.

Case No. 6:21-cv-1231

**DEFENDANTS' REPLY TO PLAINTIFF'S RESPONSE TO
DEFENDANTS' MOTION TO DISMISS PURSUANT TO RULE 12(b)(6)**

Having reviewed the Amended Complaint and Response (Docket Nos. 33 and 34) filed on April 22, 2022, by Viasat, Kioxia agrees that the Amended Complaint includes substantive revisions relevant to Defendants' Motion to Dismiss. Under this Court's precedent, such changes are sufficient to render the motion to dismiss the original complaint moot regardless of whether they fully cure the deficiencies. Therefore, Kioxia agrees that the pending Motion to Dismiss (Docket No. 29) should be denied without prejudice as moot. Kioxia will respond to the amended complaint in due course.

Dated: May 6, 2022

Respectfully submitted,

/s/ Michael Hawes

Michael Hawes
Texas State Bar No: 24010761
Telephone: (713) 229-1750
Facsimile: (713) 229-7750
Email: michael.hawes@bakerbotts.com

Robinson Vu
Texas State Bar No: 24047046
Telephone: (713) 229-1715
Facsimile: (713) 229-7815
Email: Robinson.Vu@bakerbotts.com

Michael Silliman
Texas State Bar No: 24093152
Telephone: (713) 229-1464
Facsimile: (713) 229-6164
Email: michael.silliman@bakerbotts.com

Spencer Packard
Texas State Bar No: 24125823
Telephone: (713) 229-1888
Facsimile: (713) 229-7788
Email: spencer.packard@bakerbotts.com

Baker Botts L.L.P.
910 Louisiana Street
Houston, Texas 77002

Attorneys for Defendants
Kioxia Corporation and Kioxia America,
Inc.

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served May 6, 2022, with a copy of this document via the Court's CM/ECF system.

/s/ Michael Hawes

Michael Hawes